UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/SR.31
7 April 1997

Original: ENGLISH

UNITED NATIONS
COLLECTION

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 1 April 1997, at 3 p.m.

Chairman: Mrs. BAUTISTA (Philippines)
(Vice-Chairman)

CONTENTS

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)

INDIGENOUS ISSUES

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-11543 (E)

In the absence of Mr. Somol (Czech Republic), Mrs. Bautista (Philippines), Vice-Chairman, took the Chair.

The meeting was called to order at 3.20 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

(agenda item 8) (continued) (E/CN.4/1997/4 and Add.1, Add.2 and Corr.1 and Add.3, 7 and Add.1-3 and Corr.1, 25 and Add.1, 26, 27 and Add.1, 28, 29 and Add.1, 30, 31 and Add.1, 32-34, 55 and Corr.1, 103 and 104; E/CN.4/1997/NGO/3, 4, 7, 8, 20, 22, 23, 29, 50 and 80; E/CN.4/Sub.2/1996/16, 17 and 19 and Corr.1 and Add.1; A/51/465 and 561)

1. Mr. ALAEE (Observer for the Islamic Republic of Iran) said that the right to freedom of opinion and expression gave the individual and society the opportunity to develop their potential; without it society became a tool of totalitarianism. There was often, however, a conflict between the individual's right to freedom of expression and the interests of society at large. The attempt to achieve a balance had always been a challenge, but clearly the right to freedom of expression did not seek to encourage moral corruption.

2. In recent decades, that right had been the subject of abuse for short-term political purposes, with the result that, in certain societies, the need to safeguard moral and spiritual values had been neglected. It was a growing threat and its adverse consequences had been widely recognized. Modern telecommunication technology was partly to blame, since the traditional electronic media were becoming ever more decentralized, providing greater individual choice, and services and networks were becoming less national and increasingly global in nature.

3. Notwithstanding the great contribution of telecommunications to the promotion of knowledge and prosperity, abuse by a few meant that there was more racist, xenophobic and pornographic material provided for individuals of all ages. Such decentralization was potentially dangerous and, if effective measures were not taken, human dignity and the healthy exchange of information were at risk. A subtle balance had to be struck between human rights and the public interest, with the adoption of comprehensive measures, including liability of both the creator and the user, self-regulation by the media, a heightened awareness and the development of parental control systems.

4. A global solution was required. The Commission and the Special Rapporteur on the right to freedom of opinion and expression should analyse the situation to find ways and means of ensuring responsible use of the new audio-visual and information services, including the Internet; control of the dissemination of content offensive to human dignity; and the protection of individuals of all ages against consequences harmful to their development. In informal consultations with his delegation, the Special Rapporteur had associated himself entirely with those concerns.

5. Mr. KHENNICHE (Movement against Racism and for Friendship among Peoples) said that a group of mothers of disappeared people had been formed in Istanbul two years previously and met every week for a sit-in. Despite harassment by the police, the movement was so determined and genuine that the Turkish Government, which was clearly embarrassed, must resolve the issue without delay.

6. Mr. MATINE-DAFTARY (Movement against Racism and for Friendship among Peoples), said that, as former Vice-President of the Iranian Bar Council, he considered that the situation in Iran called for strong action by the international community. The revised law on ta'zirat (discretionary punishments), which had come into effect in July 1996, prescribed such punishments as flogging and laid down punishments for acts that should not be considered crimes. One article in the law on moharabeh (war against God) dealt with espionage, providing for only one penalty - death - on the grounds that a person merely sentenced to imprisonment might live on comfortably for many years after release.

7. When the law was being promulgated, the State television network had broadcast a series of Islamist ideological programmes purporting to expose intellectuals from a wide spectrum of opinion as foreign agents. That was at a time when terrorist operations by the State within and outside Iran against nonconformists continued apace and when there had been an acceleration of public executions. Vigilante forces had generally been given official support.

8. Between 21 February and 21 March 1997, 30 executions had been reported, at least 8 of which were of political prisoners. Mr. Ghaffar Hosseini, a dissident intellectual, had suffered extrajudicial execution in November 1996. Mr. Kalimollah Tavvahodi, a writer and historian, had disappeared in Masshad. Mr. Faraj Sarkuhi had disappeared but had been released six weeks later after being tortured. Quite recently, Mr. Ibrahim Zalzadeh, a publisher and signatory of an open letter on censorship signed by 134 intellectuals, had disappeared and his family had been informed that his body could be collected. On 24 March 1997, the execution of Mr. Mohammad Asadi, a member of the Iranian Bar Association, had been reported, allegedly because he had been in contact with three people who had been executed for espionage.

9. He noted, in that connection, that the Iranian Embassy in Bonn had asserted that the death penalty was a rule imposed by the divine teachings of Islam and an instrument to guarantee the right to life for the whole of society. As the Commission was undoubtedly aware, with respect to a trial currently taking place in Berlin, a warrant had been issued for the arrest of the Minister of Intelligence and Security of the Islamic Republic of Iran.

10. Ms. GIRMA (African Association of Education for Development) said that some countries considered themselves champions of human rights, yet they sometimes made assertions without investigation, covering up for other friendly countries. The United States of America had asserted that one country had no cases of extrajudicial killings, when the point at issue was disappearances. The statement at the previous meeting by the representative of the United States had confirmed her Association's view that his country's double standards in human rights still held and that it would continue to protect countries with worse records than Cuba or China on arbitrary detention, extrajudicial executions and torture.

11. The voicelessness of a disappeared person filled his or her family with anguish. It was a crime to deny the suffering of all those concerned and not lend them a voice. Women were at the forefront in battling against enforced and involuntary disappearances. The level of disappearances had reportedly not yet reached the Working Group's magic number of 500 in any country of Africa, but there was no way of really knowing as long as civil society was not allowed to breathe freely. Many people were unaware that there was a place to which they could address their complaints, and that was another form of voicelessness.

12. Ms. OLGUIN (International Indian Treaty Council) said that, in Sri Lanka, the torture of detained Tamils had become endemic, to the extent that hundreds were subsequently acquitted because their confessions had been obtained by torture. Her organization urged that the Working Group on Arbitrary Detention, the Special Rapporteur on questions relevant to torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions visit Sri Lanka. Sri Lanka should also submit its first report to the Committee against Torture.

13. In the United States, the main problem facing thousands of incarcerated indigenous peoples was deprival of the freedom to exercise their native worship, although full facilities were provided for adherents of religions that were better understood. The problem was so great that, in 1995, the National Congress of American Indians, had declared it a human rights priority and called on the President and the Attorney-General of the United States to increase federal protection for native prisoners. However, through the Supreme Court, the United States Congress had weakened all the legal standards providing such protection.

14. For over 20 years, her organization had been bringing before the Commission the case of Mr. Leonard Peltier, who had just begun his twenty-second year of unjust imprisonment. The United States Government had admitted being directly responsible for his fraudulent extradition from Canada in 1976 by submitting false affidavits. The newly appointed Permanent Representative of the United States, who had recently addressed the Commission, had ardently advocated that Mr. Peltier should receive executive clemency and her organization urged the Commission to adopt a resolution to that effect.

15. Mr. GILANI (World Society of Victimology) said that the question of torture and disappearances in Jammu and Kashmir deserved the Commission's special attention. Some 113 people had died under torture there in 1996, and

the number had increased in recent months. In 1996, 3,890 people had been arrested and only 697 released. The Government of India had not responded to over 15,000 habeas corpus petitions and had failed to control its troops in Jammu and Kashmir. That was all the more disturbing since it asserted that a political process was under way in the territory.

16. In accordance with Commission resolution 1996/30, early steps needed to be taken in specific situations like that of Jammu and Kashmir. Until the dispute over the territory was settled, its people had to be saved from torture and other abuses, for which purpose they needed effective help from the United Nations.

17. Mr. GEBRIEL (World Federation of Democratic Youth) said that there were hundreds of political prisoners in the Sudan, held in secret detention centres where torture and ill-treatment were commonplace. Many Sudanese citizens had fled the country, including a former Prime Minister, Mr. Sadiq Mahdi, and scores of leaders of his Umma political party had been arrested.

18. A military tribunal in Khartoum was currently trying 31 people, including civilians, on charges of attempting to overthrow the Government. They were allowed no defence counsel, although they asserted that their confessions had been extracted under torture. Although the trial had been opened to the press, remarks by the president of the tribunal suggested that the result was a foregone conclusion.

19. In Turkey, torture and disappearances continued to occur, especially among the Kurds. About 10,000 people of Kurdish origin or sympathizers with the Kurdish cause, including former members of Parliament, intellectuals and journalists, were in prison on charges connected with their political or ideological beliefs. The Turkish Government should cease the use of excessive force against unarmed people.

20. Following the adoption of Commission resolution 1996/79, the Government of Nigeria had promised to improve its human rights record but had completely disregarded the contents of the resolution. More people had been imprisoned on political charges and detainees were being held in deplorable conditions, including the President-elect, Chief Moshood Abiola. Some 40 people, including the former President Olusegun Obasanjo, had been held since March 1995 after being convicted for an alleged coup d'état attempt while others had been imprisoned for having informed the media of the arrest of the alleged plotters. Following the execution of Ken Saro-Wiwa and 8 others in 1995, 19 Ogonis were awaiting trial. Moreover, Nigeria had refused to cooperate with the United Nations human rights mechanism in various ways, as the report on the situation of human rights in Nigeria (E/CN.4/1997/62) made clear.

21. In Bahrain, torture and death in custody were commonplace. Confessions taken under duress could be used as evidence and the Penal Code had been modified to allow the law-enforcement agencies a free hand in quelling protest. As a result of excessive force in the treatment of protesters, more than 10 people had died in 1996.

22. Mr. ESHAGHI (International Falcon Movement) said that, since a country's justice system was a reliable indicator of its respect for human rights, it was significant that the independence of the judiciary in the Islamic Republic of Iran had been sacrificed for political reasons. Iran's Constitution placed the executive, legislative and judicial branches under the authority of a single mullah, whose power was absolute.

23. Under the country's medieval political regime, any act or omission that threatened political authority could be considered a crime. Ambiguous qualifications, such as "enemy of God", appeared frequently in the Penal Code. Under recent legislation, providing information to opposition groups was considered to be an act of espionage punishable by death.

24. Most penalties, even under ordinary law, were implemented for the purpose of social repression. Consequently, the most effective punishments were the cruellest and those witnessed by the public. During the first two weeks of the Commission's current session, 22 public executions had taken place in Iran.

25. Most of the universally recognized principles of justice, such as equality before the law, the legal definition of crimes and punishments and the individualization of punishment, were flouted in Iran. The law allowed family members of a criminal to be punished for the latter's crime. Local authorities with no legislative power established regulations (such as mandatory dress codes for women) and penalties for infringing them.

26. It was high time that the international community took concerted action to address the situation, since the justice system was being used to perpetrate systematic human rights violations and to protect the existing political order at any price. Torture had been institutionalized in the name of Islam and terror brigades had been sent abroad to carry out death sentences against those who opposed the regime. The Commission should firmly condemn those violations in a strong resolution.

27. Mr. JOINET (Chairman-Rapporteur of the Working Group on Arbitrary Detention) said that he appreciated both the encouragement and the criticisms expressed by Governments with regard to the Working Group's report (E/CN.4/1997/4 and Add.1, Add.2 and Corr.1 and Add.3). The arguments about the legal and other aspects of the Working Group's mandate boiled down to three issues: the Working Group's position on the scope of its mandate; the question of whether the Working Group should be replaced by a special rapporteur; and the possibility of reducing the length of its mandate (currently three years).

28. Only the Commission could decide whether the Working Group should be competent to consider cases of post-trail imprisonment. The question as posed was too simplistic, however, since it was necessary to take account of the procedural conditions in which a sentence was imposed. If the procedure applied violated the right to due process to such an extent that the deprivation of liberty could be considered arbitrary, the case should come within the Working Group's competence.

29. With respect to the choice between a working group or a special rapporteur, he recalled that the Commission had originally decided to establish a working group because only experts from different regions could take due account of the specific features of the legal systems in each of those regions. Experience had shown that the participation, in country missions, of the Working Group member from the region concerned was much appreciated.

30. With respect to the length of the mandate, the Working Group was rarely able to complete its consideration of communications in less than a year, and the preparations for country missions took at least a year. If the mandate were reduced to one year, therefore, it would seriously compromise the Working Group's activities. Moreover, constant re-elections could politicize the Working Group and undermine its independence.

31. The Working Group's mandate should remain somewhat flexible. To emphasize that it did not have supranational jurisdiction, the Working Group had decided to term its conclusions "opinions" rather than "decisions" and to give more balanced consideration to communications on cases in which a final sentence of imprisonment had been pronounced.

Statements in exercise of the right of reply

32. Mr. YIMER (Ethiopia) said that the International Movement for Fraternal Union among Races and Peoples had once again rehashed its litany of fabrications and misrepresentations concerning Ethiopia. The person who had spoken on behalf of that NGO represented a political organization in Ethiopia calling itself the Ethiopian Human Rights Council. There were currently 64 registered political parties in Ethiopia. The so-called Ethiopian Human Rights Council was not among them because it posed as a human rights organization. It was free to register as a political organization and to advance its political agenda openly.

33. His Government had nothing to do with the internal problems of the Confederation of Ethiopian Trade Unions or the Ethiopian Teachers Association. The land redistribution in the Amhara Regional State of Ethiopia had been decided upon by the Regional Parliament in accordance with the Federal Constitution. Those dissatisfied with the outcome were free to petition the regional government for redress. Some university students, who had tried to stage a demonstration in the federal capital, had been arrested solely because they had failed to obtain the required permit. They had subsequently been released.

34. He regretted that the NGO in question continued to lend its name and consultative status to the warped portrayal of human rights in Ethiopia conveyed by the so-called Human Rights Council.

35. Mr. FERNÁNDEZ (Philippines) said that his delegation took exception to paragraphs 287 to 293 of the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1997/34). Since 1995, the Philippine Commission on Human Rights (PCHR) had been investigating the case of the health worker who had disappeared in Mindanao. It had concluded that the available evidence was inadequate not only to determine who was responsible,

but even to establish whether it was a case of disappearance or not. In the case of the farmer allegedly arrested in Misamis Oriental, PCHR had extended financial aid to his family after the army unit concerned had failed to produce his body, in defiance of a court order. PCHR had been unable to institute criminal charges based on circumstantial evidence, because that could prejudice a pending appeal of the respondents.

36. The sweeping statement about the "lack of communication from the Government of the Philippines regarding the outstanding cases" was utterly inaccurate. The Working Group had clarified many cases, largely owing to the cooperation of his Government. The constitutional establishment of the independent PCHR and the conclusion of a Memorandum of Agreement with Families of Victims of Involuntary Disappearances in order to extend financial assistance to victims evidenced the Government's concern about disappearances.

37. The delays in resolving cases were attributable to the justice system's adherence to due process, which required the production of sufficient evidence, which was often unavailable because of a lack of witnesses. To help correct that situation, the Government had established a Witness Protection Programme.

38. Congress was considering several bills that would incorporate the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance into domestic law. The decline in the number of disappearances in the Philippines, noted in paragraph 289 of the report, showed that the authorities' efforts had borne fruit.

39. Ms. NIU Lihua (China) said that the person who had spoken on behalf of the Transnational Radical Party, claiming to be the sister of Mr. Wei Jingsheng, had falsely stated that the latter had been imprisoned for exercising freedom of speech and human rights activities. As noted in the report of the Special Rapporteur on freedom of opinion and expression (E/CN.4/1997/31, paras. 27-38), Mr. Wei Jingsheng had been convicted, in an open and fair trial, of conspiring to overthrow the Government. Since his detention, he had been treated according to humanitarian principles and his rights and interests had been protected.

40. The representative of the Society for Threatened Peoples had also spread lies about China. However, the Chinese Government's achievements in promoting and protecting human rights could not be written off by such attacks. The Commission was no place for rumour-mongering.

41. Mrs. HERTZ (Chile) said, with respect to the NGO statement concerning the murder of Mr. Carmelo Soria, that her Government had categorically condemned that cowardly crime, committed by agents of the State during the military dictatorship, and had expressed its solidarity with the victim's family.

42. The Soria case had been reopened in 1993 as a result of her Government's efforts. However, no further legal recourse was available, since the Supreme Court had found, in a final ruling, that the amnesty declared during the dictatorship applied to the case. Although her Government regretted that decision, it had had no choice but to accept it.

43. Her Government had offered to make moral and material reparation to Mr. Soria's family and to his home country of Spain by formally reiterating its recognition that State agents had been responsible for the murder; expressing its deep regret and affirming that the democratic authorities had tried to reopen the investigation; erecting a monument in memory of the victim in a place of symbolic significance; and donating a sum of money to a foundation to be established by the family and friends of Mr. Soria.

44. Mr. AL-HADDAD (Observer for Bahrain) said that several NGOs had made inaccurate references to his country. All criminals in Bahrain enjoyed full human rights, including the right to a lawyer and the right to receive visits from relatives. Furthermore, his Government had recently signed a memorandum of understanding with the International Committee of the Red Cross (ICRC) which allowed ICRC representatives to visit detainees without interference. The actions of a small group of terrorists would not alter his Government's firm commitment to the promotion of all human rights.

45. Mr. MUSA HITAM (Malaysia) said he wished to clarify some points with regard to the defamation suit mentioned in the section on Malaysia in the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1997/32, paras. 122-134). The Special Rapporteur was among those being sued, by private citizens, over an article entitled "Malaysian justice on trial" and he had invoked the diplomatic immunity clause of the 1946 Convention on Privileges and Immunities of the United Nations. The Government, which was not a party to the suit, had already issued the relevant certificate in accordance with the International Organization (Privileges and Immunities) Act of 1992, and the Special Rapporteur's application to set aside the writ had been adjourned until 9 April 1997.

46. It was ironic that the Government should be called upon to intervene in that particular case when, at the same time, it was expected to respect fully the independence of the judiciary. The Commission could rest assured that Malaysia would honour all the conventions to which it was a party.

47. Mr. MORJANE (Observer for Tunisia) said that Tunisian society had changed profoundly since 1987. Legislation had been passed to guarantee civil and political rights in accordance with international instruments and the power of the judiciary had been strengthened. His Government had restructured the economy and signed an agreement of association with the European Union. It was successfully combating poverty and deprivation and standards of living had risen enormously.

48. It was generally agreed that the Commission on Human Rights could not achieve its objectives in an atmosphere of confrontation. Responsible NGOs had an important role to play in that process, and his Government welcomed the establishment of various regional and international NGOs in Tunisia. Unfortunately, one of those organizations had ulterior motives for making groundless accusations about the human rights situation in Tunisia.

49. The President of Tunisia had recently announced a series of political reforms aimed at strengthening the rule of law and consolidating democracy and pluralism. Various measures were planned to end violence and extremism and make political parties more responsive to the wishes of the people. The

Government had established a national committee for human rights education to promote a human rights culture in educational establishments, law schools, police academies and detention centres, and unannounced inspections of prisons had been introduced.

50. Mr. ULUÇEVIK (Observer for Turkey) said that at a time when his country was vigorously pursuing human rights reform, the spokesman for the European Union had been quick to condemn abuses there but turned a blind eye to the numerous and serious human rights violations nearer home. The Union had done nothing to put a stop to the abhorrent manifestations of racism and xenophobia that had led to loss of life, mostly among migrant workers and their families, in some of its countries, and had adopted no firm measures to end terrorist activities linked to the Kurdish Workers' Party (PKK).

51. Mr. TOUIMI (Observer for Morocco) said that a certain Mr. Lahcen had spoken on behalf of the International Association of Democratic Lawyers, although his name was not listed for that organization in the provisional list of attendance (E/CN.4/1997/Misc.2). Governments could not be expected to enter into a serious dialogue with NGOS without knowing whom they were addressing, or what the speakers addressing the Commission represented.

52. The CHAIRMAN confirmed that Mr. Lahcen was accredited to speak on behalf of the International Association of Democratic Lawyers. No one was allowed to address the Commission until his or her credentials had been checked.

53. Mr. TOUIMI (Observer for Morocco) said that the person in question had merely paraphrased, in a selective and self-serving way, the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1997/34, paras. 238-248), ignoring all the positive aspects in the report to produce a piece of propaganda. For example, his reference to hundreds of disappeared persons ignored the fact that the Government of Morocco was cooperating fully with the Working Group in efforts to trace those people. In the case of Mohamed Daddach, it was true that he was still in Kénitra prison, but only because he had refused the offer of a transfer to a prison in southern Morocco. His Government had sent a note verbale to the Working Group with its comments on the report, the contents of which would be made available to the Commission in due course.

54. Mr. SIMKHADA (Nepal), having strongly urged the Secretariat to avoid selectivity in dealing with the inscriptions of speakers on certain topics, said that he welcomed the recognition by the Working Group on Arbitrary Detention of the constitutional and legislative advances made in Nepal in recent years. His Government was currently studying the conclusions and recommendations in the Working Group's report (E/CN.4/1997/4/Add.2) and was formulating a detailed reply.

55. The plight of the Bhutanese refugees in the camps in eastern Nepal was well documented and he was disappointed that the Working Group's report (E/CN.4/1997/4) shed no light on the real problem, namely, why so many people had had to seek refuge in the first place. The seventh, and most recent, high-level talks between the Governments of Nepal and Bhutan had unfortunately stalled without producing any lasting solution. However, his Government would

continue to give the highest priority to the issue and, given the traditional friendly relations between the two countries, a solution would eventually be found.

56. With regard to the report by the Special Rapporteur on questions relevant to torture (E/CN.4/1997/7 and 7/Add.1), his Government had recently sent the Special Rapporteur its written response.

57. Mr. AMAT FORÉS (Cuba) said it was outrageous that the representative of the United States of America, with its abysmal human rights record should be lecturing the Commission and even inventing a new category of "exotic" human rights. He wondered whether the rights of African Americans to equality and freedom from discrimination, the rights of Latinos and Mexican Americans and their families to food, health and education, and the rights of Cubans to development and self-determination were considered to be "exotic". The blockade of Cuba by the United States was an act of genocide that violated the fundamental human rights of the Cuban people.

58. Mr. RAMLAWI (Observer for Palestine) said that the call by the representative of the United States for the deletion of the agenda item on the violation of human rights in the occupied Arab territories, including Palestine was directly opposed to the Commission's wishes, as expressed in a resolution it had recently adopted which reaffirmed the high priority it attached to the item. The United States position was reminiscent of similar situations in the Security Council, where the United States often opposed the entire international community.

59. No justification had been given for the proposal to abolish the item. The flouting by the United States of the will of the international community in respect of Israeli practices which violated human rights and the principles of international law stripped its Government of any credibility in its sponsorship of the Middle East peace process.

60. U AYE (Observer for the Union of Myanmar) said it was surprising that biased observations on developments in his country Myanmar should have come from a representative of the United States who had had the opportunity to visit the country, to converse extensively with high government officials and to see for himself the tremendous pace of positive developments. The Union of Myanmar had long been officially recognized by that name in the United Nations and his reference to the country by a defunct appellation disregarded the principles of sovereign equality.

61. Myanmar was in the midst of a comprehensive effort to become a peaceful, modern and developed State. The National Convention, with the participation of political parties and all the national races, was the most appropriate forum for such a transformation.

62. The "rights and choices" of the people of Myanmar were already being given the utmost attention, as amply demonstrated by the multitude of constructive activities currently being undertaken by the Government, which had repeatedly made it clear that it had no desire whatsoever to hold State responsibilities any longer than was absolutely necessary.

63. At the Commission's current session, many delegations were striving to dispense with unfounded accusations and confrontation and to proceed through cooperation and accommodation towards the promotion of human rights throughout the world. It was most unfortunate that some speakers were determined to continue on the course of confrontation and to politicize the issue of human rights.

64. Mr. SALMAN (Observer for Iraq) said that the United States representative had contended that the intervention by the Iraqi Government in the north of that country was a violation of human rights, although the north fell under Iraqi sovereignty in accordance with international law and the United Nations Charter, for which the United States representative had revealed contempt by his allegations. The intervention had been undertaken at the request of Kurdish leaders with a view to ending the strife among Kurdish factions that was fuelled by the United States and other countries.

65. It was common knowledge that the United States had forced the Kurds to ask for secession from Iraq and had dangled before them promises designed to disintegrate the country and foment dissent. The only harvest they had reaped was hunger and death. The thousands of refugees transported by the United States from the north of Iraq to Guam, a United States dependency, testified to the irresponsible and unacceptable intelligence methods used by that country.

66. The false accusations by the United States were an attempt to cover up that country's own crimes against the people of Iraq through continued armed aggression and terrorism of the civilian population, as well as the imposition of embargos designed to cut off the delivery of foodstuffs to the Iraqi people and thereby destabilize the country. Ms. Madeleine Albright, when United States representative to the United Nations, had irresponsibly stated that the United States would not agree to a lifting of the embargo against Iraq, yet had simultaneously advocated intervention in Iraq's internal affairs. No one would be deceived any longer by such duplicitous positions.

67. Mr. LI Baodong (China) said that representatives of the United States had the bad habit of pointing their fingers at other countries, as if the United States was the master of the world and all other countries had to bow to it. That was an anachronism: the world was changing, and the peoples concerned were best qualified to judge the human rights records of their own Governments.

68. The United States representative had probably forgotten that the human rights situation in his own country was far from brilliant, and the scourge of racism was still strong. He should put his own house in order and devote more attention to domestic affairs.

69. He had remarked that his country would not seek confrontation with China but, in the same breath, he had flagrantly provoked confrontation. Dialogue and confrontation were incompatible. If the United States really wished to end confrontation, it should show that intention through concrete deeds, by putting an end to all acts of confrontation and returning to the road of dialogue.

INDIGENOUS ISSUES (agenda item 24) (E/CN.4/1997/100, 101 and 102; E/CN.4/Sub.2/1996/21)

70. Mr. URRUTIA (Chairperson-Rapporteur of the Working Group on indigenous issues), introducing the Working Group's report on its second session (E/CN.4/1997/102), said that it differed from the previous report in that it reflected the positions of both Governments and the representatives of indigenous peoples.

71. At its first session, the Working Group had discussed in general terms the "draft United Nations declaration on the rights of indigenous peoples" approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. That exercise had elucidated the positions of Governments on the draft declaration and permitted three conclusions to be drawn: first, that the positions of Governments diverged considerably from the draft, secondly, that there was broad agreement on many specific aspects of the text and, thirdly, that the draft, as formulated, did not facilitate discussion.

72. The second session had been organized to take account of all those factors. Interrelated articles had been clustered, the articles presenting fewer difficulties had been taken up first and participants had been asked to eschew general comments and make specific proposals on individual articles.

73. As a result, the general discussion stage had been left behind and a sufficient number of concrete proposals made that the start of substantive negotiations could be envisaged.

74. If substantive negotiations were to be undertaken shortly, it was essential to adopt an imaginative approach to the modalities to be used for the participation of the representatives of the indigenous peoples and the Working Group was seeking the Commission's guidance in that respect. He, himself, had been asked by the Working Group to consult representatives of indigenous peoples and interested delegations with a view to reaching a consensus on the future work, in the hope that the Working Group would be able to begin substantive negotiations at its next session and that the draft declaration would be ready for approval by the General Assembly before the close of the International Decade of the World's Indigenous People.

75. Ms. KOVALSKA (Ukraine) said that the adoption of a strong declaration on the rights of indigenous peoples, like the establishment of a permanent indigenous people's forum within the United Nations, was a central goal of the International Decade. The task of finalizing the draft declaration was, however, a complex and time-consuming one, largely because there was no generally accepted definition of indigenous peoples. Moreover, the pivotal element of the draft declaration was self-determination - a fundamental principle of international law whose link with human rights had been recognized in many international instruments and declarations - but there was no clear definition of self-determination either. However, there appeared to be a consensus emerging on what might be called the right to internal self-determination in multi-ethnic democratic countries and the Working Group should strive to develop a common understanding of that right. The direct participation of representatives of indigenous organizations in the Working Group was an encouraging step in that direction.

76. Standard-setting by the United Nations concerning the human rights of minorities and indigenous peoples was lagging behind the challenges of the modern world and many States consequently tended to look for solutions in their national constitutions and historical frameworks, or to borrow from the experience of other countries. That was the road her country had chosen in elaborating a draft national policy pertaining to indigenous peoples.

77. In the context of the draft declaration, a distinction needed to be made between indigenous peoples living a tribal existence in isolated enclaves (reservations) and those integrated with the rest of society. In a sense, since the end of the era of great invasions and colonialism, all peoples could be characterized as indigenous. Thus, identification of a group as indigenous should be used as a supplementary criterion rather than a fundamental one. As it stood, however, the draft declaration was heavily oriented towards tribal peoples, an imbalance that should be eliminated.

78. Translating the right to internal self-determination into reality required special efforts on the part of Governments. Her delegation therefore called upon those States that had not yet done so to ratify or accede to the International Covenants on Human Rights and invited the States parties to those instruments to bring their national law into line with the international norms.

79. Lastly, being aware of the complexity and diversity of indigenous issues, her delegation would make an active contribution to the work of establishing a permanent forum for indigenous peoples so that a fruitful dialogue among all the parties concerned could be instituted.

80. Mr. ROSING (Denmark), speaking on behalf of the Nordic countries and the Greenland Home Rule Government, said that though some progress had been made in the three years since the start of the International Decade of the World's Indigenous People, further action was needed in various areas. In particular, the Commission should take quick and decisive steps towards the establishment of a permanent forum in the United Nations for indigenous peoples. As part of the process of consultations on that question, a United Nations workshop had been held at Copenhagen in June 1995 and various models for such a forum had been discussed, though no definite conclusions had been reached. The Nordic countries fully supported the proposal for a second United Nations workshop on a permanent forum and welcomed the generous offer by the Government of Chile to host it.

81. As for the basic features of a permanent forum, it should have a broad scope and mandate covering issues such as development, the environment, culture and human rights. It should report to the Economic and Social Council and be composed of representatives of both Governments and indigenous peoples.

82. At its fourteenth session, the Working Group on Indigenous Populations had stated that, while the establishment of a permanent forum was a high priority, the forum should not replace the Working Group itself. The Nordic countries agreed that there was a strong need for continuation of the Working Group's review of developments.

83. The adoption of a declaration on indigenous rights was a major objective of the Decade; and it was unfortunate that no breakthrough in that direction had yet occurred. The Nordic countries, which called for the earliest possible adoption of the declaration, thought that all concerned should continue to do their utmost to ensure the widest possible access of indigenous representatives to the Working Group's meetings. They recommended that consultations should take place to discuss the Group's working methods prior to its next session.

84. The Voluntary Fund for the International Decade was currently operational: the Nordic countries were already contributing to it and urged others to do likewise. They welcomed the recent nomination of indigenous representatives to serve as members of the Advisory Group of the Fund and supported the objective that the Fund should contribute to such Decade activities as the establishment of a permanent forum, capacity-building and training in human rights, and dissemination of information about indigenous peoples and the Decade.

85. As part of the programme of the Decade, the Nordic countries had been actively involved in international meetings of indigenous and forest-dependent peoples on the management, conservation and sustainable development of forests. They had sponsored an international workshop on indigenous peoples and forests, hosted by the Colombian Government in December 1996. Indigenous peoples should be closely involved in the preparation of programmes and plans for the forthcoming special session of the General Assembly on sustainable development.

86. The Commission should be active in all the areas he had mentioned, and Governments and international and non-governmental organizations should support the International Decade by providing resources for activities to implement the Decade's goals, in cooperation with indigenous peoples.

The meeting rose at 6.15 p.m.